

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:	Chapter 11
White Forest Resources, Inc., <i>et al.</i> ,	Case No. 25-10195 (TMH) (Jointly Administered)
Debtors. ¹	Hearing Date: June 17, 2025 at 10:00 a.m. (ET) Objections Due: June 10, 2025 at 4:00 p.m. (ET)

**NOTICE OF MOTION OF ALLEGHENY-BLUE RIDGE ALLIANCE,
APPALACHIAN VOICES AND WEST VIRGINIA HIGHLANDS
CONSERVANCY FOR RELIEF FROM THE
AUTOMATIC STAY PURSUANT TO 11 U.S.C. § 362(d)**

PLEASE TAKE NOTICE that, on May 30, 2025, Allegheny-Blue Ridge Alliance, Appalachian Voices and West Virginia Highlands Conservancy (“Movants”) filed the *Motion of Allegheny-Blue Ridge Alliance, Appalachian Voices and West Virginia Highlands Conservancy for Relief from the Automatic Stay Pursuant to 11 U.S.C. § 362(d)* (the “Motion”) with the United States Bankruptcy Court for the District of Delaware.

PLEASE TAKE FURTHER NOTICE that objections, if any, to the Court’s approval of the Motion must be (a) in writing and served on or before **June 10, 2025 at 4:00 p.m. (ET)** (the “Objection Deadline”); (b) filed with the Clerk of the United States Bankruptcy Court for the District of Delaware, 824 N. Market Street, 3rd Floor, Wilmington, DE 19801; and (c) served as to be received on or before the Objection Deadline by the undersigned attorneys.

PLEASE TAKE FURTHER NOTICE THAT A HEARING ON THE MOTION WILL BE HELD ON JUNE 17, 2025 AT 10:00 A.M. BEFORE THE HONORABLE THOMAS M. HORAN, UNITED STATES BANKRUPTCY JUDGE FOR THE UNITED STATES

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number are: White Forest Resources, Inc. (3764); Xinergy Corp. (3865); Xinergy of West Virginia, Inc. (2401); Shenandoah Energy, LLC (6770); South Fork Coal Company, LLC (3113); Bull Creek Processing Company, LLC (0894); Raven Crest Mining, LLC (0122); Brier Creek Coal Company, LLC (9999); Raven Crest Contracting, LLC (7796); Raven Crest Leasing, LLC (7844); and Raven Crest Minerals, LLC (7746). The Debtors’ service address is 1295 Ashford Hill Rd., Ashford, WV 25009.

BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE, 824 N. MARKET STREET,
5th FLOOR, COURTROOM #5, WILMINGTON, DE 19801.

The hearing date may be a preliminary hearing or may be consolidated with a final hearing, as determined by the Court.

The attorneys for the parties shall confer with respect to the issues raised by the Motion in advance for the purposes of determining whether a consent judgment may be entered and/or for the purpose of stipulating to relevant facts such as the value of the property, and the extent and validity of any security instrument.

IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

Dated: May 30, 2025

Respectfully submitted,

ASHBY & GEDDES

/s/ Benjamin W. Keenan

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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:	Chapter 11
White Forest Resources, Inc., <i>et al.</i> ,	Case No. 25-10195 (TMH) (Jointly Administered)
Debtors. ¹	Hearing Date: June 17, 2025 at 10:00 a.m. (ET) Objections Due: June 10, 2025 at 4:00 p.m. (ET)

**MOTION OF ALLEGHENY-BLUE RIDGE ALLIANCE, APPALACHIAN VOICES
AND WEST VIRGINIA HIGHLANDS CONSERVANCY FOR RELIEF FROM THE
AUTOMATIC STAY PURSUANT TO 11 U.S.C. § 362(d)**

Allegheny-Blue Ridge Alliance, Appalachian Voices and West Virginia Highlands Conservancy (the “Movants”), by and through their undersigned counsel, hereby move (the “Motion”) for entry of an order pursuant to 11 U.S.C. § 362(d) of title 11 of the United States Code (the “Bankruptcy Code”), Rule 4001 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rule 4001-1 of the Local Rules for the United States Bankruptcy Court for the District of Delaware (the “Local Rules”) granting relief from the automatic stay to the extent necessary allow Movants to participate in certain pending federal administrative proceedings concerning a cessation order (the “Cessation Order Action”) issued to Debtor South Fork Coal Company and a related “valid existing rights” determination (“VER Determination”) regarding the use of a coal haul road through federally managed forest land. Movants seek relief from the automatic stay to file a motion to intervene and/or submit amicus curiae briefs in the Cessation Order Action, and to participate in subsequent appeals of that matter in accordance with applicable nonbankruptcy law. Movants also request relief from the automatic stay to

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participate in the VER Determination and appeal an adverse VER Determination made by OSMRE in accordance with applicable nonbankruptcy law. In support of the Motion, Movants respectfully state as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this Motion under 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue of this proceeding and this Motion in this District is proper under 28 U.S.C. § 1410.

2. The statutory predicates for the relief requested herein are 11 U.S.C. § 362(d)(1), Bankruptcy Rule 4001 and Local Rule 4001-1.

3. Movants consent to the entry of a final order by the Court with respect to this Motion if it is determined that the Court, absent consent of the parties, cannot enter a final order consistent with the Article III of the United States Constitution.

BACKGROUND

4. On February 7, 2025 (the “Petition Date”), the Debtors commenced voluntary cases (the “Chapter 11 Cases”) under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware. The Chapter 11 Cases are jointly administered for procedural purposes only pursuant to Bankruptcy Rule 1015(b). 5.

5. The Debtors are authorized to continue operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

6. On April 11, 2025, the Court entered Order (I) Authorizing (A) Sale of the Raven Crest Assets Free and Clear of All Liens, Claims, Interests, and Encumbrances, (B) the Debtors' Assumption and Assignment of Certain Executory Contracts and Unexpired Leases; And (II)

Granting Related Relief [D.I. 227]. On information and belief, the Debtors continue their operations with respect to Debtor South Fork Coal Company, LLC (the “Debtor” or “South Fork Coal”).

(A) The Cessation Order Action Against South Fork Coal, South Fork Coal’s Related VER Request and Movants’ Interests Therein

7. As set forth in the pleadings in the Cessation Order Action, on or about January 13, 2025, the Office of Surface Mining Reclamation and Enforcement (“OSMRE”), a division of the United States Department of the Interior, issued Cessation Order No. C25-111-440-001 (the “Cessation Order”) against South Fork Coal with respect to the 1.2 mile portion of U.S. Forest Service Road 249 known as Haulroad No. 2 that runs through the Monongahela National Forest.

8. South Fork Coal’s use of Haulroad No. 2 had previously been approved in connection with a mining permit issued by the West Virginia Department of Environmental Protection (“WVDEP”). However, the OSMRE issued its Cessation Order concerning the road based on a finding that a “Valid Existing Rights” determination was required but had not been performed. Surface coal mining operations and impacts are prohibited within national forests unless an entity receives a positive VER Determination (30 U.S.C. § 1272(e) and 30 CFR 761.11).

9. In response, South Fork Coal on January 17, 2025 filed an Application for Review and an Application for Temporary Relief from the Cessation Order. The dispute concerning the Cessation Order was docketed at Docket No. CH-2025-10-R with the United States Department of the Interior Office of Hearings and Appeals Departmental Case Hearings Division (the “Office of Hearings and Appeals”). In its Application for Review, South Fork Coal asserted that it had previously and properly submitted a request for a Valid Existing Rights Determination (“VER Request”) to the OSMRE on or about September 18, 2024.

10. On January 21, 2025, the OSMRE filed its initial response to South Fork Coal's Application for Review. Its response included a settlement agreement in which the parties agreed OSMRE would not oppose South Fork Coal's request for temporary relief from the Cessation Order and South Fork Coal would file an unopposed motion to stay the Cessation Order Action for 120 days to allow time for the OSMRE to review South Fork's VER Request.

11. In accordance with the settlement agreement, South Fork Coal on January 24, 2025 filed its Unopposed Motion for Stay in the Cessation Order Action, which the Office of Hearings and Appeals granted on January 27th, 2025, staying the matter until May 30th, 2025.²

12. As noted above, on February 7, 2025, the Debtors filed petitions for relief under chapter 11 of the Bankruptcy Code, at which time the automatic stay under section 362(a) of the Bankruptcy Code became applicable to the Cessation Order Action and related proceedings.

13. The Movants are each conservation groups whose members assert rights as citizens, including the right to be heard in the Cessation Order Action and VER Request as the matters relate to the Debtor's use of Haulroad No. 2 and the effect such use has on the national forest lands through which the road runs.³ Movants note that they have already submitted public comments to the Federal Register on the Debtor's VER Request during the public comment period. Movants seek only a limited modification of the stay for the sole purpose of participating in the specified administrative proceedings and any direct appeals thereof.

² A copy of the Office of Hearings and Appeals' January 27, 2025 Order is attached hereto as Exhibit A.

³ Movants have been actively involved in the underlying regulatory proceedings from the outset, having submitted formal citizen complaints on June 20, 2024 and December 12, 2024 concerning South Fork Coal Company's unlawful use of Haulroad No. 2 without a VER Determination. Those complaints prompted the Office of Surface Mining Reclamation and Enforcement ("OSMRE") to issue Ten-Day Notice No. X24-111-440-003 and, subsequently, Cessation Order No. 23-06-22-01 regarding South Fork Coal's unauthorized use of Haulroad No. 2. Additionally, on April 21, 2025, Movants submitted detailed public comments to OSMRE opposing South Fork Coal Company's pending VER petition for use of Haulroad No. 2 through the Monongahela National Forest, citing legal, procedural, and environmental deficiencies.

STATEMENT OF RELIEF SOUGHT

14. By this Motion, Movants seek relief from the automatic stay under 11 U.S.C. § 362(a) to the extent necessary to permit their participation in the pending federal Cessation Order Action concerning the Debtor’s use of Haulroad No. 2 and the Debtor’s related VER Request. Specifically, Movants seek authority to (i) intervene and/or file an amicus curiae brief in the Cessation Order Action, and (ii) participate in the VER Determination and appeal any adverse VER Determination made by OSMRE, with any such participation to be conducted in accordance with the applicable rules and procedures of the OSMRE. Movants initiated the underlying enforcement process through citizen complaints and have remained actively engaged in the matter, including by submitting formal comments opposing the VER Request. Absent a lifting of the stay, however, Movants cannot participate in the administrative tribunal proceeding or the VER determination proceeding without risking a violation of the stay or being held in contempt; accordingly, they seek this limited relief now to avoid such a result. Movants are requesting, pursuant to 11 U.S.C. § 362(d) and Rule 4001(a) of the Federal Rules of Bankruptcy Procedure, an order granting relief from the automatic stay to the extent necessary to permit Movants to:

A. Participate in Cessation Order Action: Participate fully in the ongoing enforcement proceeding before the U.S. Department of the Interior’s Office of Hearings and Appeals regarding the cessation order issued to South Fork Coal Company concerning Haulroad No. 2. This includes allowing Movants to submit motions to intervene, and/or filing an amicus brief, appear, present evidence or argument, and otherwise advocate in that administrative proceeding without violating the stay.

B. Pursue VER Determination Proceedings: Participate in the administrative proceedings related to the Debtor’s pending Valid Existing Rights (“VER”) determination request

before the Office of Surface Mining Reclamation and Enforcement (OSMRE) and/or the Department of the Interior, and to take part in any associated judicial proceedings arising from or pertaining to that VER determination for the Monongahela National Forest. The relief sought will ensure Movants can engage in the VER proceeding and any review thereof to protect their interests, notwithstanding the automatic stay.

15. Movants request that the relief from stay be granted *for cause* under 11 U.S.C. § 362(d)(1) to the extent applicable, and that the Court’s order confirm that participation in the above-described proceedings will not constitute a violation of the automatic stay. The Movants also seek such other and further relief as the Court deems just and proper to fully effectuate the foregoing permissions.

DISCUSSION

16. Section 362(a) operates as a stay of “the commencement or continuation ... of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case.” 11 U.S.C. 362(a)(1). Section 362(a) further provides that the filing of a petition operates as a stay of “any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate.” 11 U.S.C. § 362(a)(3).

17. With respect to relief from the automatic stay, section 362(d) of the Bankruptcy Code provides, in relevant part:

On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or condition such stay ... for cause ...

11 U.S.C. § 362 (d). The term “cause” is not defined in the Bankruptcy Code, but rather must be determined on a case by case basis. *In re Rexene Prods. Co.*, 141 B.R. 574, 576 (Bankr. D. Del.

1992 (internal citations and quotations omitted). “Cause is a flexible concept and courts often conduct a fact intensive, case-by-case balancing test, examining the totality of the circumstances to determine whether sufficient cause exists to lift the stay.” *In re SCO Group, Inc.*, 395 B.R. 852, 856 (Bankr. D. Del. 2007).

18. Courts rely upon a three-pronged balancing test in determining whether “cause” exists for granting relief:

- (1) Whether any great prejudice to either the bankrupt estate or the debtor will result from continuation of the civil suit;
- (2) Whether the hardship to the non-bankrupt party by maintenance of the stay considerably outweighs the hardship to the debtor; and
- (3) The probability of the creditor prevailing on the merits.

See In re SCO Group., 395 B.R. at 857.

19. Here, the facts weigh in Movants’ favor under each of the three factors. The Debtor will suffer no cognizable prejudice if the stay is lifted to permit Movants’ limited participation in the specified proceedings. Movants seek only to continue their involvement in two non-bankruptcy matters – *an administrative appeal of an environmental Cessation Order* and a forthcoming *VER DETERMINATION* concerning Debtor’s use of public lands – and not to assert any monetary claims or obtain estate property. These proceedings are fundamentally regulatory and public-interest in nature, and do not threaten the estate’s assets or the priority of creditors. Any minimal burden on the Debtor (such as responding to the Cessation Order appeal or the VER inquiry) does not outweigh the benefit of resolving those issues; indeed, an increase in litigation expense or a modest diversion of the Debtor’s attention “does not, by itself, justify” denying relief from stay.

20. In contrast, the hardship to Movants (and the public) would be irreparable if the

stay remains in place. Movants would be barred from timely advocating for enforcement of environmental and public land laws, impairing their statutory rights and potentially allowing unlawful conduct to go unchecked. Such harm is not compensable in money damages. Courts have long recognized that environmental injury is often permanent and “irreparable,” and if such injury is sufficiently likely, the balance of harms will favor those seeking to protect the environment. *Amoco Prod. Co. v. Vill. of Gambell, Alaska*, 480 U.S. 531, 545 (1987) (“Environmental injury, by its nature, can seldom be adequately remedied by money damages and is often permanent or at least of long duration, *i.e.*, irreparable. If such injury is sufficiently likely, therefore, the balance of harms will usually favor the issuance of an injunction to protect the environment.”). Here, denying relief would irreparably undermine Movants’ ability to protect public lands and environmental interests at a critical juncture, whereas granting relief imposes no meaningful burden on the Debtor. The balance of hardships therefore tilts strongly in favor of the Movants.

21. For all the above reasons, Movants have shown ample “cause” under 11 U.S.C. § 362(d)(1) to modify the stay. The Bankruptcy Code does not rigidly define “cause,” and courts apply a flexible, case-by-case approach in deciding stay relief motions. The touchstone is whether continuing the stay serves the underlying purposes of bankruptcy – such as protecting estate assets and equitable distribution – in light of the specific circumstances. Here, maintaining the stay would serve no legitimate bankruptcy purpose but would gravely prejudice important public interests.

22. The automatic stay was never intended to be used as a sword to evade regulatory oversight or to prevent the enforcement of public health and safety laws. Congress acknowledged as much by excepting governmental police and regulatory actions from the stay’s reach. See 11

U.S.C. § 362(b)(4). Although Movants are private parties, not a government agency, the proceedings at issue – enforcement of environmental regulations and public land protections – implicate the same public policy concerns that underpin § 362(b)(4). Cause exists to lift the stay because the Debtor will suffer no material harm if these environmental proceedings go forward, while Movants (and the public at large) will suffer irreparable harm if they are prevented from pursuing them. Granting the Motion will simply allow the appropriate administrative and judicial authorities to decide the environmental and land-use issues on their merits, without affecting the bankruptcy estate or interfering with Debtor’s reorganization. In short, the equities and the interests of justice strongly support granting relief from the stay, and Movants respectfully submit that the Court should authorize them to proceed as requested.

23. With respect to the final prong, the likelihood of success on the merits may be satisfied by “[e]ven a slight probability of success on the merits.” *American Airlines, Inc. v. Continental Airlines, Inc. (In re Continental Airlines, Inc.)*, 152 B.R. 420, 426 (D.Del. 2006). In this case, it is unclear if this prong applies as Movants are not seeking to assert claims as creditors of the Debtors’ estates. Here, Movants’ underlying challenges raise serious and colorable issues of law and fact concerning compliance with environmental requirements, easily satisfying this modest threshold. Given that the balance of equities so strongly favors Movants, even a relatively slight probability of success on the merits is sufficient to warrant the stay being lifted.

24. Finally, denying this Motion would irreparably harm Movants and their members by permanently depriving them of any opportunity to be heard and to protect their shared environmental and public interests in the public lands they co-own. Movants’ members have clear statutory and procedural rights to participate in the agency proceedings at issue – including the

pending Cessation Order Action and any appeal of the forthcoming VER Determination – as provided by law. These participatory rights, once lost, cannot be vindicated through money damages or belated post hoc intervention, because the key decisions will already have been made in Movants’ absence. The resulting loss of participation inflicts not only a particularized injury on Movants and their members, but also undermines the public’s interest in transparent and inclusive decision-making, depriving the process of the valuable scrutiny and input that Congress intended interested citizens to provide. Conversely, allowing Movants to exercise their rights and participate in the Cessation Order Action and VER Determination process will cause no prejudice to the Debtors or their estates; it will simply ensure a full and lawful determination of the Debtors’ claimed rights regarding use of the contested National Forest Service road, with all stakeholders’ interests duly considered.

CONCLUSION

WHEREFORE, Movants pray that this Court enter an Order terminating, annulling and modifying the automatic stay as necessary to allow Movants to participate in the Cessation Order Action and VER Determination process as requested herein and for such other relief as the Court may deem just and proper.

Dated: May 30, 2025

Respectfully submitted,

ASHBY & GEDDES

/s/ Benjamin W. Keenan

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*Attorneys for Allegheny-Blue Ridge Alliance,
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Exhibit A



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January 27, 2025

ORDER

SOUTH FORK COAL COMPANY, LLC,)	No. CH-2025-01-R
)	
Applicant)	Application for Review and for
)	Temporary Relief
v.)	
)	Cessation Order No:
OFFICE OF SURFACE MINING)	C25-111-440-001
RECLAMATION AND)	
ENFORCEMENT,)	South Fork Haulroad No. 2
)	
Respondent)	

Proceeding Stayed;
Deadline to File Status Report

On January 17, 2025, South Fork Coal Company, LLC (South Fork) filed an Application for Review and Application for Temporary Relief from Cessation Order No. C25-111-440-001, issued by the Office of Surface Mining Reclamation and Enforcement (OSMRE). In accordance with the parties' Settlement Agreement, this Tribunal issued an Order granting temporary relief on January 22, 2025. South Fork has now filed an unopposed motion to stay the above-captioned proceeding pending OSMRE's resolution of South Fork's Request for a Valid Existing Rights Determination.

Based on a review of the pleadings as well as the parties' Settlement Agreement, and for good cause shown, it is hereby ORDERED as follows:

1. South Fork's Unopposed Motion for Stay is GRANTED. All case processing related to the above-captioned proceeding is stayed until **Friday, May 30, 2025.**

2. By no later than **Friday, May 30, 2025**, the parties must file a Status Report, jointly or separately, addressing the status of South Fork's Request for a Valid Existing Rights Determination and indicating:
 - (1) Whether the stay of this proceeding should be extended to allow additional time for a resolution of the Valid Existing Rights Determination; or
 - (2) Whether the stay of this proceeding should be lifted, and if so, propose case processing deadlines or other appropriate action that will aid in the resolution of this proceeding.

Dawn S. Perry
Administrative Law Judge

See page 3 for distribution.

Distributed

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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

White Forest Resources, Inc., *et al.*,

Debtors.¹

Chapter 11

Case No. 25-10195 (TMH)
(Jointly Administered)

Related D.I.:

**ORDER GRANTING MOTION OF ALLEGHENY-BLUE RIDGE ALLIANCE,
APPALACHIAN VOICES AND WEST VIRGINIA HIGHLANDS CONSERVANCY FOR
RELIEF FROM THE AUTOMATIC STAY
PURSUANT TO 11 U.S.C. § 362(d)**

Considering the Motion of Allegheny-Blue Ridge Alliance, Appalachian Voices and West Virginia Highlands Conservancy (together, the “Movants”) for Relief from the Automatic Stay Pursuant to 11 U.S.C. §§ 362(d) (the “Motion”);² and the Court finding good cause exists for the relief requested; and due and adequate notice having been given:

IT IS HEREBY ORDERED, that the Motion is GRANTED as set forth herein.

IT IS FURTHER ORDERED, that the automatic stay under 11 U.S.C. §362(a) is hereby terminated, annulled and modified as necessary to allow Movants to file a motion to intervene and/or an amicus brief in the Cessation Order Action at Docket No. CH-2025-10-R before the United States Department of the Interior Office of Hearings and Appeals Departmental Case Hearings Division, to appeal any determination of the Cessation Order Action and to

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² To the extent not otherwise defined, capitalized terms herein shall have the meaning ascribed in the Motion.

participate in public comment and any subsequent appeal with respect to the Office of Surface Mining Reclamation and Enforcement's determination of the Request for Valid Existing Rights Determination submitted by South Fork Coal Company, LLC with respect to U.S. Forest Service Road 249;

IT IS FURTHER ORDERED this Order shall become effective immediately upon entry by the Court and is not subject to the fourteen-day stay provided in Rule 4001(a)(4) of the Federal Rules of Bankruptcy Procedure.

IT IS FURTHER ORDERED this Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this Order.

CERTIFICATE OF SERVICE

I, Benjamin W. Keenan, hereby certify that on May 30, 2025, I caused one copy of the *Motion of Allegheny-Blue Ridge Alliance, Appalachian Voices and West Virginia Highlands Conservancy for Relief from the Automatic Stay Pursuant to 11 U.S.C. § 362(d)* to be served upon (i) all parties of who registered to receive notice pursuant to Rule 2002 via CM/ECF; and (ii) the parties on the attached service list via electronic mail, unless otherwise indicated.

Dated: May 30, 2025

/s/ Benjamin W. Keenan

Benjamin W. Keenan (Bar No. 4724)

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